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10/622,017	07/16/2003	David Heller	101-P288/P3054US1	1693

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EXAMINER	
MEUCCI, MICHAEL D	

ART UNIT	PAPER NUMBER
2442	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/622,017	HELLER ET AL.	
	Examiner	Art Unit	
	MICHAEL D. MEUCCI	2442	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *22 May 2008*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-6,8-10 and 12-42* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-6,8-10 and 12-42* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *11 February 2004* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

1. This action is in response to the request for reconsideration filed 22 May 2008.

2. Claims 1-6, 8-10, and 12-42 remain pending.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

4. Claims 1-6, 8, 9, 12, 13, 15-19, 21-23, 25-31, and 33-42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lysenko et al. (U.S. 7,089,319 B2) hereinafter referred to as Lysenko in view of Levy (U.S. 2002/0052885 A1).

a. Regarding claims 1, 15, and 27, Lysenko teaches: (b) accessing, by a second application program, a data communication file provided by the first application program the first application program utilizing database data in a proprietary format, and the data communication file being derived from the data such that data internal to the data communication file is acquired from the media information (lines 26-30 of column 3); (c) producing, by the second application program, a user interface on the display using data internal to the data communication file (lines 39-43 of column 3); (d) receiving a user selection with respect to the user interface of displayed media data extracted from the data communication file (lines 11-16 of column 2 and lines 34-36 of column 2); (e) identifying a media content file associated with the user selection (lines

36-40 of column 2); (f) associating a media content file identified by the user selection to the second application program (lines 24-36 of column 3).

Lysenko does not explicitly teach: (a) storing, by a first application, one or more media content files in the data storage device; and utilizing media information about one or more media content files. However, Levy discloses: Now, the client software establishes a connection with a central database, and transfers to the central database the artist and song title of each song due to its ID3 tags, that the file can be shared, and that it is a "safe" file," (paragraph [0115] on page 7). It would have been obvious for one of ordinary skill in the art at the time of the applicant's invention to utilize media information about one or more media content files. "Note that the artist and song title can be identified by the embedded data ID and a secondary database, as discussed above," (paragraph [0115] on page 7 of Levy). It is for this reason that one of ordinary skill in the art at the time of the applicant's invention would have been motivated to utilize media information about one or more media content files in the system as taught by Lysenko.

b. Regarding claim 2, Lysenko teaches: wherein the data within the data communication file includes a link to the media content file (lines 28-37 of column 10).

c. Regarding claim 3, Lysenko teaches: wherein the associated media content file is thereafter useable by the second application program (lines 45-56 of column 8).

d. Regarding claims 4 and 17, Lysenko teaches: wherein said associating comprises presenting the media content file at the computer system (lines 28-38 of column 10).

e. Regarding claim 5, Lysenko teaches: wherein said associating comprises playing or displaying, within the second application program on the computer system, media content from the media content file (lines 28-38 of column 10).

f. Regarding claims 6, 18, and 34, Lysenko teaches: wherein the user interface includes at least a menu of media items determined from data acquired from the data communication file provided by the first application program (lines 40-45 of column 5).

g. Regarding claims 7 and 8, Lysenko teaches: wherein the user interface is produced and said method is performed by the second application (lines 24-36 of column 3 and lines 28-38 of column 10).

h. Regarding claims 9, 19, and 31 Lysenko teaches: wherein the data communication file is a markup language document (lines 28-34 of column 10)

i. Regarding claims 11 and 21, Lysenko teaches: wherein data within the data communication file pertains to media items managed by the first application program (lines 28-34 of column 10).

j. Regarding claims 12, 22, and 33, Lysenko teaches: discloses that the data within the data communication file includes at least media item properties and links to storage locations for media content files containing media content for the media items (lines 28-34 of column 10).

k. Regarding claims 13 and 23, Lysenko teaches: said producing, said receiving, said identifying, and said associating are each able to be performed regardless of whether the first application program is being executed by the computer system (lines 3-19 of column 9).

l. Regarding claim 16, Lysenko teaches: wherein the data within the data communication file includes links to the one or more media content files (lines 28-37 of column 10); and wherein the media content file is stored by the first program, and thereafter the media content file is useable by the second program (see rejection of claim 1).

m. Regarding claim 25, Lysenko teaches: wherein the first program executes on a first computer system, the second program executes on a second computer system (lines 26-43 of column 3).

n. Regarding claim 26, Lysenko teaches: wherein the data communication file is stored on the first computer system, the second computer system, or another computer system (lines 26-30 of column 3).

o. Regarding claim 28, Lysenko teaches: said second application program receives a user selection with respect to the user interface, thereby selecting at least one media item (lines 28-37 of column 10).

p. Regarding claim 29, Lysenko teaches: wherein said second application program plays or displays media content from the media content file for the selected media item (lines 24-43 of column 3).

q. Regarding claim 30, Lysenko teaches: wherein said second application program makes use of the media information from the data communication file or media content from the media content file for the selected media item (lines 24-36 of column 3).

r. Regarding claim 35, Lysenko does not explicitly teach: wherein said data storage device further stores data forming the first media database. However, Levy discloses: Now, the client software establishes a connection with a central database, and transfers to the central database the artist and song title of each song due to its ID3 tags, that the file can be shared, and that it is a "safe" file," (paragraph [0115] on page 7). It would have been obvious for one of ordinary skill in the art at the time of the applicant's invention to have the data storage device further store data forming the first media database. "Note that the artist and song title can be identified by the embedded data ID and a secondary database, as discussed above," (paragraph [0115] on page 7 of Levy). It is for this reason that one of ordinary skill in the art at the time of the applicant's invention would have been motivated to have the data storage device further store data forming the first media database in the system as taught by Lysenko.

s. Regarding claims 36-38, Lysenko teaches: first application program updates the data communication file whenever the first media database is updated, changed, and when a user interface window associated with the first application program is context switched into a foreground position (lines 26-35 of column 8).

t. Regarding claim 39, Lysenko teaches: wherein the first application program and the second application program operate on the same computer (lines 26-43 of column 3).

u. Regarding claim 40, Lysenko teaches: wherein the first application program is a media management application (lines 23-35 of column 8).

v. Regarding claim 41, Lysenko teaches: wherein the data communication file is automatically produced by the first application (lines 23-35 of column 8).

s. Regarding claim 42, Lysenko teaches: wherein the first application program automatically updates the data communication file when the media information utilized by the first application program changes (lines 26-35 of column 8).

5. Claims 10, 20, and 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lysenko and Levy as applied above, in view of Book et al. (U.S. 2003/0223566), hereinafter referred to as Book.

a. Regarding claims 10, 20, and 32, Lysenko does not explicitly disclose that the markup language document is an XML document. Book teaches that XML can be used to create a web page (par. 88, line 11). Lysenko and Book are analogous art because they are from the same field of endeavor of computing systems. At the time of invention, it would have been obvious to one of ordinary skill in the art that Lysenko's web page could be written in XML, as taught by Book. The motivation for doing so would have been to enable Lysenko's invention to take advantage of the human readable tags that XML provides. It is for this reason that one of ordinary skill in the art

at the time of the applicant's invention would have been motivated to use XML documents as the markup language documents in the system as taught by Lysenko.

6. Claims 14 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lysenko as applied above, in view of Perkes et al. (U.S. 2002/0194601 A1) hereinafter referred to as Perkes.

a. Regarding claims 14 and 24, Lysenko teaches: wherein said second application program is an image or video manager and viewer (lines 26-30 of column 3); and (claim 24 only) wherein the data communication file is stored on any of a first program, a second program or a third program (lines 23-35 of column 8). Lysenko does not explicitly teach: wherein said first application program is a music manager and player. However, Perkes discloses: "The consumer's selection is automatically detected and opens the media player required to play the type of media selected. If the Consumer activates the particular method implemented, the Guide will launch either a proprietary media player or any one of several widely distributed and well-known media player formats (such as Windows Media Player, RealPlayer or Apple's QuickTime Media Player), and display the preview of the content. For instance, if the content is a movie or video, the guide might play highlights of that content or a content provider supplied movie/video trailer may be shown. If the content is audio content, the guide might play highlights of the content, such as a portion of a musical piece or speech," (paragraph [0071] on page 7). It would have been obvious for one of ordinary skill in the art at the time of the applicant's invention to have the first application program be a

music manager and player. "These "teasers" would be used to encourage the consumer to play the previewed content, thereby increasing pay per views," (paragraph [0071] on page 7 of Perkes). It is for this reason that one of ordinary skill in the art at the time of the applicant's invention would have been motivated to have the first application program be a music manager and player in the system as taught by Lysenko.

Response to Arguments

7. Applicant's arguments filed 22 May 2008 have been fully considered but they are not persuasive.

8. (A) Regarding claim 1, the applicant contends Lysenko does not teach: accessing, by a second application program, a data communication file provided by the first application program the first application program utilizing database data in a proprietary format, and the data communication file being derived from the data such that data internal to the data communication file is acquired from the media information. The examiner respectfully disagrees.

As to point (A), the applicant argues that the fact that Lysenko mentioning proprietary multimedia file types is not sufficient to teach or suggest a data communication file having data derived from media information of a first media application. The examiner first points to the cited portion of Lysenko, lines 26-30 of

column 3, which teaches proprietary file types, which in turn require a third-party application to view/access the files. The third-party application is equivalent to the applicant's second application program. The applicant's data communication file, given the broadest reasonable interpretation, is nothing more than a file with a file name which, when accessed, provides the contents (data internal to the data communication file) of the media file to the user. As such, the rejection remains proper and is maintained by the examiner.

9. (B) Regarding claim 1, the applicant contends that Lysenko does not teach: producing of a user interface using the data internal to the data communication file. The examiner respectfully disagrees.

As to point (B), the applicant argues that Lysenko merely mentions that multimedia applications are resource-intensive and conventionally require proprietary and high-bandwidth networks. The examiner points out that given the broadest reasonable interpretation of data communication file from (A) above, the selection of a data communication file, by nature, produces a user interface on the second application program (i.e. audio/video player). Lysenko discloses to this point: "real-time audio-visual applications have traditionally been implemented on proprietary and expensive high-bandwidth networks that are capable of supporting high speed data transmissions and/or multicasting techniques," (lines 39-43 of column 3). Additionally, Lysenko discloses: "Once connected to a selected content capturing component, a web browsing application downloads a copy of modified delivery-on-demand client to Internet user's

computer and/or Internet-enabled device and then displays it on Internet user's screen," (line 66 of column 5 through line 3 of column 6). From these recitations, it is clear that Lysenko does teach the second application having a user interface on the display which uses data internal to the data communication file (media). As such, the rejection remains proper and is maintained by the examiner.

10. (C) Regarding claims 15 and 27, the applicant contends that Lysenko and Levy do not teach: a data communication file to facilitate sharing media data between applications. The examiner respectfully disagrees.

As to point (C), the applicant's arguments fail to comply with 37 CFR 1.111(b) because they amount to a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references.

Additionally, in response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., a data communication file to facilitate sharing media data between applications) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Lysenko discloses: "The delivery-on-demand client is further programmed to playback reassembled audio-visual portion along with any other multimedia content received from a content capturing component," (lines 27-30 of column 6) which clearly

teaches a data communication file to facilitate sharing media data between applications. As such, the rejection remains proper and is maintained by the examiner.

11. (D) The applicant's remaining arguments are directed towards subject matter discussed in points (A)-(C) above. No additional arguments were provided by applicant in support of these allegations.

Conclusion

12. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Meucci at (571) 272-3892. The examiner can normally be reached on Monday-Friday from 9:00 AM to 6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Caldwell, can be reached at (571) 272-3868. The fax phone number for this Group is 571-273-8300.

Communications via Internet e-mail regarding this application, other than those under 35 U.S.C. 132 or which otherwise require a signature, may be used by the applicant and should be addressed to [michael.meucci@uspto.gov].

All Internet e-mail communications will be made of record in the application file. PTO employees do not engage in Internet communications where there exists a possibility that sensitive information could be identified or exchanged unless the record includes a properly signed express waiver of the confidentiality requirements of 35 U.S.C. 122. This is more clearly set forth in the Interim Internet Usage Policy published in the Official Gazette of the Patent and Trademark on February 25, 1997 at 1195 OG 89.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Andrew Caldwell/
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